CHURCHWELL WHITE

BOARD OF SUPERVISORS

2013 FEB 21 P 3: 18

February 21, 2013

VIA US MAIL AND E-MAIL (ferrroc@stancounty.com)

Stanislaus County of Board of Supervisors
ATTN: Christine Ferraro Tallman, Clerk of the Board of Supervisors
1010 10th St, Suite 6500
Modesto, CA 95354

Re: June 4, 2013 Special Election Request by the City of Riverbank

Dear Ms. Ferraro Tallman:

The City of Riverbank ("City") will be conducting a special municipal election on June 4, 2013 (the "Election") to fill its City Council vacancy. Enclosed with this letter are certified copies of the following City resolutions relating to the call and holding of the Election:

Resolution 2013-004:	A Resolution of the City Council of the City of Riverbank, California, Calling and Giving Notice for the Holding of a Special Municipal Election on Tuesday, June 4, 2013, For the Election of an Officer to Fill a Vacancy as Required by the Provisions of the Laws of the State of California Relating to General Law Cities and Requesting that the Board of Supervisors of the County of Stanislaus Render Specified Services to the City Relating to the Conduct of the Election
Resolution 2013-004-A:	A Resolution of the City Council of the City of Riverbank, California, Amending Resolution No. 2013-004 to Clarify the Calling of a Special Municipal Election to be Held on Tuesday, June 4, 2013, to Elect an Officer to Fill a City Council Vacancy
Resolution 2013-004-B:	A Resolution of the City Council of the City of Riverbank, California, Requesting that the Board of Supervisors of the County of Stanislaus Render Specified Election Services to the City of Riverbank Relating to the Conduct of a Special Municipal Election to be Held on June 4, 2013

Consistent with Election Code section 10002, City is requesting that the Board of Supervisors ("Board") authorize the Stanislaus County Registrar of Voter's office ("Registrar") to provide election services to City for the Election. Specifically, City is requesting that the Registrar provide those election services specified in Resolution 2013-004, Resolution 2013-004-A and

City of Riverbank June 4, 2013 Special Election Request
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Resolution 2013-004-B for the conduct of the Election. City will pay for all necessary costs and expenses associated with performance of the services by Registrar and City will defend and be the sole responsible entity for any court action brought to challenge the Election.

The City has reviewed the Registrar's letter dated February 13, 2013 (the "Letter"). We agree with the Registrar that the language of Resolution 2013-004 required further clarification. To that end, Resolution 2013-004-A makes clear that the Election was called on February 9, 2013 and that City is required to conduct the Election on June 4, 2013. Resolution 2013-004-B clarifies the scope of election services being requested of the Registrar by City for the Election. Resolution 2013-004-B further establishes City as the sole responsible entity to defend and pay for any court action brought to challenge the Election.

Resolution 2013-004-A and Resolution 2013-004-B clarifies or addresses every concern in the Letter. City is requesting that the Registrar provide those election services it has historically provided to City in the past. Should this request be denied, City will be required to contract with another government entity or private contractor to provide the requested election services for the Election.

Should you have any questions please contact me by phone at (916) 468-0950 or by email at doug@churchwellwhite.com.

Very truly yours,

CHURCHWELL WHITE LLP

Douglas L. White
Partner

DLW/ems

cc: William O'Brien, Stanislaus County Board of Supervisors
        Vito Chiesa, Stanislaus County Board of Supervisors
        Terry Withrow, Stanislaus County Board of Supervisors
        Dick Monteith, Stanislaus County Board of Supervisors
        Jim DeMartini, Stanislaus County Board of Supervisors
        Monica Nino, Chief Executive Officer for Stanislaus County
        Lee Lundrigan, Stanislaus County Clerk & Registrar of Voters

Enclosures: Resolution 2013-004
                Resolution 2013-004-A
                Resolution 2013-004-B

BOARD OF SUPERVISORS

CITY OF RIVERBANK

2013 FEB 21 P 3: 18

RESOLUTION 2013-004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, CALLING AND GIVING NOTICE FOR THE HOLDING OF A SPECIAL MUNICIPAL ELECTION ON TUESDAY, JUNE 4, 2013, FOR THE ELECTION OF AN OFFICER TO FILL A VACANCY AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS RENDER SPECIFIED SERVICES TO THE CITY RELATING TO THE CONDUCT OF THE ELECTION

WHEREAS, a vacancy of the office of Councilmember was created by the election and installation of former Councilmember Richard D. O'Brien to the Mayoral office on December 10, 2012; and

WHEREAS, the term of office in which the vacancy occurred ends December, 2014.

WHEREAS, pursuant to Elections Code § 12001 for a special local election, the governing body (City Council) of the local agency (City of Riverbank) shall issue a resolution calling the election.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, DOES HEREBY DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1.   That pursuant to the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Riverbank, California, on Tuesday, June 4, 2013, a Special Municipal Election for the purpose of electing one (1) Councilmember for the vacant, unexpired term of office ending December 2014, created by the Mayoral election and installation of former Councilmember Richard D. O'Brien.

SECTION 2.   That pursuant to the provisions of § 10002 of the Elections Code of the State of California, the City Council requests the Board of Supervisors of the County of Stanislaus to issue instructions to the County Elections Official to render specified services by taking any and all steps necessary to hold and conduct the Special Municipal Election.

SECTION 3.   That pursuant to the provisions of § 10002 of the Elections Code of the State of California, the City Council shall reimburse the County in full for all costs incurred for the election services performed when the work is completed and upon presentation to the City a properly submitted invoice.

SECTION 4.   That the highest estimated cost of $57,000.00 will be appropriated for the payment of services rendered in holding the Special Municipal Election.

SECTION 5.   That pursuant to the provisions of § 10220, § 10224, and § 10225 of the Elections Code of the State of California, the filing period for nomination papers and Candidate's Statements shall commence on Monday, February 11, 2013, and end on Friday, March 8, 2013; nomination papers shall be filed during the regular business hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m.; Monday through Friday; and, that the time extension of the nomination period is not applicable since there is no incumbent eligible to be elected.

SECTION 6.   CANDIDATE STATEMENT (Election Code § 13307)

A.   That the City Clerk (Elections Official) of the City of Riverbank determined prior to the opening of the nomination period that a deposit of $700.00 shall be required in order to file a candidate statement, of no more than 200 words, along with the filing of nomination papers, which is consistent with the City's election practices.

B.   That pursuant to EC § 13307 a local agency is allowed to estimate and require advance payment of the pro rata cost of printing, handling, translating and mailing the candidate's statement filed pursuant to this code section, including complying with the federal Voting Rights Act.

C.   That this pro rata cost estimate is just an approximation of the final actual cost; if any overpayment occurs, the candidate shall be reimbursed by the City, and if an underpayment occurs, the candidate shall be billed and is required to pay the additional cost upon receipt of the invoice.

SECTION 7.   That the polls for the election shall open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m., except as provided in § 14404 of the State of California Elections Code.

SECTION 8.   That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 9.   That notice of the time and place of holding the election is given and that the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 10.   That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters, Elections Division of the County of Stanislaus upon its adoption.

SECTION 11.   That the City Clerk shall certify to the pasage and adoption of this resolution and enter it into the book of original resolutions.
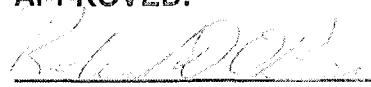
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 11th day of February, 2013; motioned by Vice Mayor Jeanine Tucker, seconded by Councilmember Darlene Barber-Martinez, and upon roll call was carried by the following vote of *4-0:

AYES: Councilmembers: Barber-Martinez, Nygard, Tucker, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAIN: None

ATTEST: APPROVED:

Annabelle Aguilar, CMC   Richard D. O'Brien
City Clerk   Mayor

*Councilmember vacancy

CERTIFICATION
I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Riverbank.

_____ CITY CLERK

DATED _____02-12-2013_____

BOARD OF SUPERVISORS **CITY OF RIVERBANK**

2013 FEB 21 P 3: **RESOLUTION NO. 2013-004-A**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, AMENDING RESOLUTION NO. 2013-004 TO CLARIFY THE CALLING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 4, 2013, TO ELECT AN OFFICER TO FILL A CITY COUNCIL VACANCY

WHEREAS, a vacancy of the office of Councilmember was created by the election and installation of former Councilmember Richard D. O'Brien to the Mayoral office on December 10, 2012; and

WHEREAS, pursuant to GC § 36512 the City Council had a 60-day time period, ending February 8, 2013, to make an appointment or call for a special election, and as a result of several considerations, consensus was not reached on either option, and in so doing, allowed the 60-day deadline to expire; and

WHEREAS, the City Council desired to have the operations of law of the State of California immediately commence at 12:01 a.m. February 9, 2013, thereby calling for the holding of a special municipal election to be held at the next regularly established election date which is June 4, 2013; and

WHEREAS, pursuant to Elections Code § 12001 for a special local election, the City Council of the City of Riverbank issued a resolution calling the election to formerly permit the City Clerk to perform the necessary duties in holding an election, to request services from the County or any other entity as deemed necessary for the conduct of the election, and to appropriate the necessary funds to cover all costs incurred.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, DOES HEREBY DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1.   The City Council recognized that upon the expiration of the 60-day period, the operation of State law immediately commenced calling and ordering to be held in the City of Riverbank, California, on Tuesday, June 4, 2013, a Special Municipal Election for the purpose of electing one (1) Councilmember for the vacant, unexpired term of office ending December 2014.

SECTION 2.   That the City Clerk as the City's Election Official is authorized, instructed, and directed to procure election services in order to properly and lawfully conduct the election.

SECTION 3.   That an estimated cost of $57,000.00 will be appropriated for the payment of services rendered in holding the special municipal election.

SECTION 4.   That pursuant to the provisions of the Elections Code of the State of California, the filing period for nomination papers and candidate statements commenced on Monday, February 11, 2013, and will end on Friday, March 8, 2013; nomination papers shall be filed during the regular business hours of 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday; and, that the extension of the nomination period is not applicable since there is no incumbent eligible to be elected.

SECTION 5.   CANDIDATE STATEMENT (Election Code § 13307)

A.   That pursuant to EC § 13307 a local agency is allowed to estimate and require advance payment of the pro rata cost of printing, handling, translating and mailing the candidate's statement filed pursuant to this code section, including complying with the federal Voting Rights Act.

B.   That the City Clerk of the City of Riverbank determined prior to the opening of the nomination period that a deposit of $700.00 shall be required in order to file a candidate statement, of no more than 200 words, along with the filing of nomination papers, which is consistent with the City's election practices.

C.   That this pro rata cost estimate is just an approximation of the final actual cost; if any overpayment occurs, the candidate shall be reimbursed by the City, and if an underpayment occurs, the candidate shall be billed and is required to pay the additional cost upon receipt of the invoice.

SECTION 6.   That the polls for the election shall open at seven o'clock a.m. of the day of the election and shall remain open continuously from that time until eight o'clock p.m., except as provided in § 14404 of the State of California Elections Code.

SECTION 7.   That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.
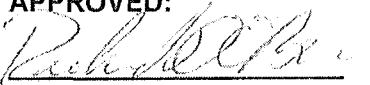
SECTION 9.   That notice of the time and place of holding the election is given and that the City Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form, and manner as required by law.

SECTION 10.   That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a special meeting held on the 20th day of February, 2013; motioned by Councilmember Dotty Nygard, seconded by Vice Mayor Jeanine Tucker, and upon roll call was carried by the following vote of *4-0:

AYES: Councilmembers: Barber-Martinez, Nygard, Tucker, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAIN: None

ATTEST:

Annabelle Aguilar, CMC
City Clerk

APPROVED:

Richard D. O'Brien
Mayor

*Councilmember vacancy

CERTIFICATION
I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Riverbank.

CITY CLERK

DATED_____ 02 - 21 - 2013

Page 2 of 2   CC Resolution No. 2013-004-A

BOARD OF SUPERVISORS

2013 FEB 21 P 3: 19   CITY OF RIVERBANK

RESOLUTION NO. 2013-004-B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, REQUESTING THAT THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS RENDER SPECIFIED ELECTION SERVICES TO THE CITY OF RIVERBANK RELATING TO THE CONDUCT OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON JUNE 4, 2013

WHEREAS, a special municipal election is to be held in the City of Riverbank on June 4, 2013; and

WHEREAS, the City of Riverbank has traditionally requested and received election services from the Stanislaus County Registrar of Voters Office, Elections Division, through the consolidation of the City's regular or special elections with statewide elections; and

WHEREAS, in the course of the conduct of a special election it is necessary that the City request election services to be rendered by the Stanislaus County Registrar of Voters, Elections Division, as they are the entity equipped to conduct, canvas, and declare the results of an election in the manner provided by law.

NOW, THEREFORE BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF RIVERBANK, CALIFORNIA, DOES HEREBY DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1.   That pursuant to Section 10002 of the Elections Code of the State of California, the City Council requests the Board of Supervisors of the County of Stanislaus to permit the County Elections Official to render specified services to the City relating to the conduct of an election.

SECTION 2.   That the specified services requested by the City Council are all the necessary steps and all required elections processes that have been traditionally provided by the Stanislaus County Elections Division in order to properly and lawfully conduct, canvass, and certify the results of an election.

SECTION 3.   That pursuant to Section 10002 of the Elections Code of the State of California, the City Council shall reimburse the County in full for all costs incurred for the election services performed when the work is completed and upon presentation to the City of a properly submitted invoice.

SECTION 4.   That the City is not relieved of the ultimate responsibility for canvassing the returns of the election, nor shall the County be obligated in any case to defend or prosecute any action at law or equity arising out of any such election or

contesting the validity of any such election; rather, the City shall be responsible for defending any court action brought to challenge the election.

SECTION 5.   That the City Clerk is hereby authorized and directed to take all actions necessary to effectuate this Resolution (2013-004-B) and its intent for and on behalf of the City of Riverbank.

SECTION 6.   That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.
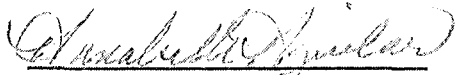
SECTION 7.   That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters, Elections Division, of the County of Stanislaus upon its adoption.

SECTION 8.   That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Riverbank at a special meeting held on the 20th day of February, 2013; motioned by Councilmember Dotty Nygard, seconded by Vice Mayor Jeanine Tucker, and upon roll call was carried by the following vote of *4-0:

AYES: Councilmembers: Barber-Martinez, Nygard, Tucker, and Mayor O'Brien
NAYS: None
ABSENT: None
ABSTAIN: None

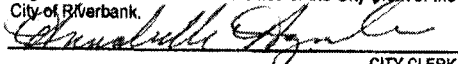ATTEST:

_____
Annabelle Aguilar, CMC
City Clerk

APPROVED:

_____
Richard D. O'Brien
Mayor

*Councilmember vacancy

CERTIFICATION
I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Riverbank.

_____
                                        CITY CLERK
DATED_____ 02-21-2013_____

Page 2 of 2   CC Resolution No. 2013-004-B